



PATENT
03141-P0349A WWW ✓

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	Joseph L. DiCesare, <i>et al.</i> ✓
Serial No. Pending	Filing Date: March 29, 2001
Title of Application	Polymeric medium for the Retention of Reagent Species for Use in a Hand-Held Device for the Relatively Rapid Detection of the Presence of an Analyte of Interest in a Sample
Group Art Unit	Examiner

Box DAC
Assistant Commissioner for Patents
Washington, DC 20231

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OFFICE OF PETITIONS

Petition For Correspondence Never Received

Applicant hereby petitions the Commissioner to receive the above-captioned Patent Application enclosed herewith as Exhibit A, and accord the Filing Date to March 29, 2001.

On March 29, 2001, the above-referenced patent application was mailed "express mail" to the United States Patent and Trademark Office. The file was apparently lost in the mail, or misplaced by the Office.

Mailing Certificate: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as *First Class Mail* in an envelope addressed to: Box DAC; Assistant Commissioner for Patents; Washington, DC 20231.

October 26, 2001


Michael Krenicky

02/15/2002 SLUANG1 00000002 DICESARE J L

01 FC:122 130.00 OP

05/02/2002 AKELLEY 00000003 194516 09645977

01 FC:101 710.00 CH

In order to petition the Commissioner to accord a filing date as of the date of deposit with the USPS, where correspondence deposited as "Express Mail" is never received by the Office, 37 C.F.R §1.10(e) requires four elements, namely that the petition:

(A) be filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(B) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing;

(C) include a true copy of the originally deposited correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in" or other official notation entered by the USPS; and

(D) include a statement, signed by the person who deposited the documents as "Express Mail" with the USPS, setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying the petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed or received.

With respect to each of these four elements, Applicant submits the following:

(1) This Petition was promptly filed after it was discovered that the Check # 042842 was never cashed by the USPTO. Upon further investigation we learned that no filing receipt was received, and no return post card was received. This Petition is being filed at the first opportunity after Applicant became aware of the "lost mail" in this case.

(2) The number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing. More specifically, the Express Mail

mailing label number is located on the front page of the Patent Application, as well as on the transmittal papers accompanying the Patent Application.

(3) Applicant respectfully submits a true copy of the originally deposited correspondence showing the number of the "Express Mail" mailing label thereon (Exhibit B), a copy of the "Express Mail" mailing label showing the "date-in" (Exhibit C), another official delivery record from the USPS (Exhibit D). No returned postcard is present since it was apparently lost in the packet of materials comprising the "lost mail". A copy of the lost unreturned post card is included (Exhibit E).

(4) Applicant respectfully submits a statement (Exhibit F), signed by the person who deposited the documents as "Express Mail" with the USPS, setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying the petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed.

For the above reasons, Applicant respectfully requests that the Commissioner receive the above-captioned Patent Application enclosed herewith, and accord a Filing Date of March 29, 2001.

Applicant has enclosed the petition fee of \$130.00 under 37 C.F.R. §1.17(i). If there is any fee deficiency or overpayment, please charge or credit Account No 19-4516.

Respectfully submitted,

25 October 2001

A handwritten signature in cursive script, appearing to read "Michael Krenicky", written over a horizontal line.

Wesley W. Whitmyer, Registration No. 33,558 ✓

Michael Krenicky, Registration No. 45,411

Attorneys for Applicant

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